

AT AN ADJOURNED MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 28th DAY OF APRIL 2008, AT 6:00 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Annette S. Perkins	-Chair
	Doug Marrs	-Vice Chair
	Mary W. Biggs	-Supervisors
	William H. Brown	
	Gary D. Creed	
	John A. Muffo	
	James D. Politis	
	B. Clayton Goodman, III	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	Karen Edmonds	-Human Resources Director
	Angie Hill	-Financial & Management Services Director
	Marc Mcgruder	-Budget Manager
	Steve Sandy	-Planning Director
	Dari Jenkins	-Zoning Administrator
	Ruth L. Richey	-Public Information Officer
	Vickie L. Swinney	-Secretary, Board of Supervisors

CALL TO ORDER

The Chair called the meeting to order.

INTO CLOSED MEETING

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- | | | |
|------------------|-----|---|
| Section 2.2-3711 | (3) | Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body |
| | | 1. Prices Fork Elementary School Site |
| | | 2. Courthouse Project |

- (7) Consultation with Legal Counsel and Briefings from Staff Members or Consultants Pertaining to Actual or Probable Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel

1. Norfolk Southern Intermodal Facility

- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body

1. Community Services Board
2. CPMT

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
Doug Marrs	
William H. Brown	
Mary W. Biggs	
James D. Politis	
John A. Muffo	
Annette S. Perkins	

OUT OF CLOSED MEETING

On a motion by John A. Muffo, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

AYE

Doug Marrs
William H. Brown
Mary W. Biggs
James D. Politis
John A. Muffo
Gary D. Creed
Annette S. Perkins

NAY

None

CERTIFICATION OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

William H. Brown
Mary W. Biggs
James D. Politis
John A. Muffo
Gary D. Creed
Doug Marrs
Annette S. Perkins

NAYS

None

ABSENT DURING VOTE

None

ABSENT DURING MEETING

None

INVOCATION

A Moment of Silence was lead by Chair Perkins.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PUBLIC HEARINGS

Proposed Ordinance Amending the B-3 Voting Precinct

Proposed Ordinance amending the B-3 voting precinct by splitting the B-3 precinct and creating from a portion of the existing B-3 precinct a new B-4 voting precinct with the B-4 precinct polling place located at the Christiansburg Recreation Center 1600 North Franklin Street (U.S. Route 460) Christiansburg, Virginia.

The County Attorney provided information on the proposed ordinance amendment. The Electoral Board submitted a request to split the existing B-3 precinct and make a new B-4 precinct. The new polling place would be located at the Christiansburg Recreation Center, which the Electoral Board got the Town of Christiansburg's permission to use. He also noted that the change will not take effect until the United States Department of Justice approves the change.

Randy Wertz, Registrar, introduced the members of the Electoral Board, Cynthia Chappelka, Chair; John Nowlin, Vice-Chair; and Dean Dowdy, Secretary.

Cynthia Cappelka, Chair of the Electoral Board, explained that the B-3 precinct has seen a tremendous amount of growth in the Town of Christiansburg, mostly the Oak Tree area, due to the development of this area. At the 2006 November election, the polling lines were long and voters had to wait longer than normal in order to vote. They received complaints about the long lines and the driving distance to the polling precinct and asked the Electoral Board if something could be done. The Electoral Board did a study and concluded that a seconded precinct was needed in order to accommodate the growth.

Supervisor John Muffo asked how the affected votes will be notified of the new polling place. Mr. Wertz responded that new voter cards will be sent out to all registerd voters that will be affected.

There being no speakers, the public hearing was closed.

Rezoning Request – Rhondy L. Martin and Margene Ward Martin –
Continued from March 28, 2008

An Ordinance requested by Rhondy L. Martin and Margene Ward Martin 1997 Trust (Agent: Mathews & Henegar, Inc.) for rezoning approximately 18.1325 acres from Agriculture (A-1) to Rural Residential (RR), with proffered conditions to allow maximum density of 6 single family detached lots. The property is located at 1806 Keisters Branch Rd (Rt.718), identified as Tax Parcel No(s). 51-A-51, (Acct. # 018027), in the Prices Fork Magisterial District (District E). The property currently lies in an area designated as Rural in the Comprehensive Plan.

Dari Jenkins, Zoning Administrator, provided a summary on the proposed rezoning request. This public hearing is a continuation from the March 28, 2008 Board meeting due to the Planning Commission tabling this request until their April 9, 2008 meeting to allow the applicant to address concerns by the Planning Commission and neighboring property owners.

The applicants are requesting the rezoning from Agriculture to Rural Residential to allow the property to be subdivided into 6 lots. No new streets will be constructed as all six lots will front Keisters Branch Road (SR 718). Currently under Agriculture zoning, 4 lots are permitted by-right. The owners are relocating to Montgomery County and will be building their home on Lot 2 shown on the preliminary subdivision plat. None of the lots could be further subdivided except lot 2, which could be subdivided into one additional lot.

At their April 9, 2008 meeting, the Planning Commission recommended approval of this request with the following proffers, which they felt would address concerns raised by the adjacent property owners.

1. The total number of lots permitted on the 18.1325 acre tract will not exceed six (6).
2. A thirty (30) foot natural vegetated buffer will be retained around the perimeter of the property using the existing trees, unless it interferes with easements, drainfields, driveways or sight distances.

Neighboring property owners pointed out that if the rezoning is approved as submitted, the owner could divide the property into 12 lots even though in the application only six lots will be created. They also expressed concerns with traffic resulting from the possibility of twelve lots. The above proffers should alleviate some of these concerns.

Lynn Reed, agent for the applicant, provided additional comments on the proposed request. The Martins are hoping to get a better use of the property and have proffered subdividing the property into only six lots. They are willing to keep a 30 foot natural vegetated buffer as it was not their intentions to clear the property, they want to keep it as rural as possible.

Claudia Mullins expressed the following concerns with the Martin Rezoning:

- The development of \$400,000 homes is not consistent with the other homes in the area.
- The plan does not recognize the interrelatedness of land use or the environmental issues.
- The stormwater run-off from at least three houses will run into the branch.
- The plan will have undesirable effects on the natural and scenic beauty of the land.
- Traffic: Keisters Branch Road is a dangerous road and in dire need of repair.
- Driveway: One driveway to be added is in a small hollow that will flood when it rains. It is too close to the curve of the road.
- Set back laws: What are the set back laws for a house from the edge of another's property? How close will Mr. Martin's house be from the property line? Where is his mother's house going to be located, which is not shown on the plan?

Ms. Mullins implored the Board to keep this land zoned Agriculture as a legacy to the reasons why Virginia Tech is here and alive today and the land, as is, fits with the character of the area. She stated that three more houses will be acceptable under A-1 zoning.

Lynn Reed addressed concerns reported by Ms. Mullins. Ms. Reed commented that the proposed homes will be in the \$250,000 price range. In Agricultural zoning, Mr. Martin can by-right subdivide the 18 acres into 4 lots. He is requesting an additional two lots, with each lot averaging 2.5 acres and lot #2 will be 5 acres. Lot #2 can be subdivided again to create one additional lot making a total of 7 houses. For example, this lot can be subdivided for a mother-in-law house. Ms. Reed explained that VDOT will allow 2 dwellings to share one driveway and VDOT will have to approve all entrances onto the main road. As far as concerns regarding the stormwater runoff, they are working on getting the necessary drainage easements and setbacks.

Supervisor Bill Brown commented that the agent requested that the Board consider voting on this request tonight. Chair Perkins explained that it is the Board's policy not to take action on a request the same night of the public hearing, but at the next board meeting. This allows Board member to take into consideration any opposition or concerns by adjoining property owners. Under special circumstances the Board may consider taking action the same night if there is no opposition. She suggested that Supervisor Brown bring this up during Board Reports.

There being no further speakers, the public hearing was closed.

Rezoning Request – Reese Family Limited Partnership - Continued from March 24, 2008
An Ordinance requested by Reese Family Limited Partnership rezoning approximately 227.65 acres from Agriculture (A-1) to Rural Residential (RR), with proffered conditions, to permit a maximum allowed density of 67 single family detached units. The property adjoins The Ridges phases 2-7 and is located on the west side of Bradshaw Rd. (Rt. 629), north of New Ridge Rd (Rt. 1052), identified as Tax Parcel No(s) 45-A-80, 45-3-5A, and 32-A-55 (Acct. #s 025398, 034187, and 001477) in the Mt. Tabor Magisterial District (District C). The property currently lies in an area designated as Rural in the Comprehensive Plan.

Dari Jenkins summarized the request. She stated this public hearing was continued from the March 24, 2008 Board of Supervisors meeting due to the Planning Commission tabling the request to their April 16, 2008 meeting to address concerns from adjoining property owners.

Mr. Reese is requesting a rezoning to allow 227.65 acres (three total lots) from A-1 to Rural Residential to allow 67 lots. The current zoning of A-1 allows the three lots to be divided into a total of 20 lots; therefore, the rezoning will increase the number of lots allowed by 47 for a total of 67 lots. The property directly adjoins The Ridges Subdivision, phases 2-7. It is anticipated that the land will be developed into five or more phases with eight-ten houses in each phase. Each lot will be served by private well and septic.

The applicant has submitted four proffers as follows:

1. The total number of dwelling units shall not exceed 67, with a minimum lot size of 1.5 acres.
2. A network of walking trails will be developed on the property. The exact layout of the trails will be finalized with Montgomery County input as the lot layout is finalized.
3. No clearing will be allowed except for a 75' zone around the house, and as required to install drainfields.
4. Homeowners will be responsible for maintenance of alternative septic systems.

Ms. Jenkins reported that there were numerous property owners expressing concerns about the addition of 67 wells on the area's water table.

At their March 12, 2008 meeting, the Planning Commission discussed this request and after significant input from neighboring property owners, the request was tabled until April 9, 2008. At their April 9, 2008 meeting the request was tabled again to April 23, 2008 in order to allow staff to gather information regarding the existing wells, along with general information on well depth, well water supply (gallons per minute), etc. Staff met with Health Department representatives for a general discussion regarding water wells and gathered data on existing wells in "The Ridges Subdivision"

At their April 23, 2008 meeting, the Planning Commission, after a lengthy discussion regarding the water and open space concerns, recommended approval of the request with the four proffered conditions (as mentioned above) that were submitted by the applicant.

Supervisor Biggs asked how the proffers addressed the water concerns. Ms. Jenkins replied that the proffers do not address the concerns. The Planning staff researched the information and met with Health Department representatives, and it was determined that private wells are regulated by the State.

Supervisor Biggs also asked about possible use of alternative septic systems. Ms. Jenkins replied again these are regulated by the Health Department.

Ms. Jenkins explained that if the rezoning is approved then all 67 lots still have to undergo a soil test to determine if the lot will perk and provide water. After all lots are tested then it will be determined the number of lots that will be developed. The maximum lot number is 67; however, it may be less depending on the soil testing.

Supervisor Muffo stated the real concern is that if there is no water flow then the Health Department will instruct the County to construct a water line to this area at taxpayers expense. He believes the Planning Commission is taking a "Buyers Beware" attitude.

Supervisor Biggs expressed concern with the Planning Commission attitude about the issue of wells and septic and asked that their concerns be addressed by the Planning Commission.

Supervisor Creed asked if a proffer could be submitted that a Buyer's Notification be added to the deed on what to expect regarding the wells. He believes a statement can be added to the subdivision plat and deeds to alert buyers of well depth and gallons per minute (gpm) from existing homes.

Nickie Mills, agent with Abbott Engineering and Surveying, provided additional information regarding the rezoning request and well water. He stated that The Ridges Subdivision started it's first phase of construction in the late 1980's and Phase 7 was just completed in 2007. It has taken 18 years to do seven phases. This request is proposing 67 lots that will also be phased in. There will not be an influx of new wells all at one time. Mr. Mills stated that the Health Department requirements for a new well is based on a 3 bedroom house averaging less than 450 gallons of water per day. He stated that the applicant is willing to proffer that if a lot does not test for water or if a well fails he will buy the lot back. A study of 22 wells in The Ridges Subdivision was taken and the average flow of water was 6.4 pgm and the average depth of wells is 423 feet.

Supervisor Muffo asked if there was a possibility of the area running out of water, which is his greatest concern. Mr. Mills replied that he cannot make any guarantees. There is a twenty year history in The Ridges and no wells have failed to date.

Arthur Mellon commented that he is a well driller and that he has drilled many of the existing wells in The Ridges Subdivision. The depth of the well will vary depending on the lot. Also, all the wells will not draw water from the same ridge. He stated that a well will go dry if there is misuse. If there is constant running of water it will use of all the water reserve also a water softener may make cause the pump to run continuously.

There being no further speakers, the public hearing was closed.

Comprehensive Plan Map Amendment – Knollwood Development, LLC

A request by Knollwood Development, LLC (Agent: Balzer & Associates) for a Comprehensive Plan map amendment to change the policy map designation from Rural to Urban Expansion for a parcel located on the east side of the 500 Block of Cinnabar Road and adjacent to the north side of the Norfolk Southern railroad. The property is further identified as Tax Parcel No. 67-A-160F, (Acct No. 026412), in the Shawsville Magisterial District.

Steve Sandy, Planning Director, provided a brief summary on the proposed request. The applicant is requesting that property consisting of 25.688 acres be considered as Urban Expansion in the County's Comprehensive Plan. The area is currently zoned Residential Multi Family (RM-1) and designated in the future land use map as Rural. The owner is requesting the change in order to develop the property with a variety of single family detached housing types and other supporting neighborhood uses such as a day care facility. With an Urban Expansion designation, the owner could request a rezoning from the RM-1 to a Planned Unit Development-Residential District (PUD-RES) or a Traditional Neighborhood District (TND). Either zoning would allow for a true neighborhood design and would encourage conservation of open spaces and environmentally sensitive areas of parcel. The property is surrounded by areas already designated as Urban Expansion; therefore, it would be consistent with the area.

At their April 9, 2008 meeting, the Planning Commission recommended approval of the comprehensive plan amendment.

There being no speakers, the public hearing was closed.

Comprehensive Plan Map Amendment – Linda S. Caldwell, et.al

A request by Linda S. Caldwell, et al. (Agent: Albright & Bonguard, PLC) for an amendment to the Belview Village Plan map to change the designation from Village Medium Density Residential to Village Mixed Use for parcel(s) located on the north and south side of the 3500 & the eastern half of the 3600 block of Peppers Ferry Road and the 4000 block of Bradford Lane inclusive. The properties are further identified as Tax Parcel Nos. 64-A-82; 64-1-7A; 64-1-7B; 64-A-91; 63-1-4A; 64-A-83; 64-A-84; 64-A-89; 64-A-90; 64-A-99; 64-A-100; 64-A-100; 64-A-80; 64-A-81; 064-1-5B, (Acct Nos. 010121, 017123, 021593, 015578, 009039, 010122, 021691, 011645, 000229, 011138, 011139, 011136, 011137, 010109), in the Prices Fork & Riner Magisterial Districts.

Steve Sandy, Planning Director, provided a brief summary on the request. The applicant is requesting a change in land use map designation from Village Medium Density Residential to Village Mixed Use. The parcels are located in the Village of Belview on Peppers Ferry Road. The applicant's property has been utilized as an automobile dealership for 37 years, prior to that a furniture store and has been utilized as business property for 50 years. The use of the property is more conducive to Mix Use designation than medium density residential. The property dwelling is only 20 ft. from the pavement of Rt. 114 and no room for a front yard. The property is limited by this designation should the owner change the use of the property or decide to sell. The owner believes that the property better fits the Mix Use designation. Also, included in Ms. Caldwell's request 14 other property owners have requested that their property be designated as Mixed Use in the Belview Village Plan. They believe this area is more consistent with mixed use than medium residential.

At their April 9, 2008 meeting, the Planning Commission recommended approval of this request.

Victor Bongard, III, agent, stated that the property is consistent with the mixed use in the Village Plan and it meets the criteria for change.

There being no further speakers, the public hearing was closed.

PUBLIC ADDRESS

Steve Semones, Balzer & Associates, agent for Knollwood Development, LLC, was available to answer any questions regarding their request for land use designation change.

There being no further speakers, the public address session was closed.

CONSENT AGENDA

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously, the Consent Agenda dated April 28, 2008 was approved.

The vote on the foregoing motion was as follows:

AYE

John A. Muffo
James D. Politis
Mary W. Biggs
William H. Brown
Gary D. Creed
Doug Marrs
Annette S. Perkins

NAY

None

Approval of Minutes

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously, the minutes dated March 10, March 11, March 17 and March 24, 2008 were approved.

A-FY-08-94 CLERK OF CIRCUIT COURT TECHNOLOGY TRUST FUND STATE JURY REIMBURSEMENTS

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2008, for the function and in the amount as follows:

250 Clerk of Circuit Court	\$6,409
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The sources of the funds for the foregoing appropriation are as follows:

<u>Revenue Account</u>	
02250-423100 Shared Expenses	\$139
02250-419122 Jury Reimbursements	<u>\$6,270</u>
	\$6,409

Said resolution appropriates Technology Trust fund monies to cover the cost of maintenance supplies for the Clerk's office land records system and appropriates criminal jury reimbursements from the state due to the change of venue criminal trial.

A-FY-08-95 PARKS AND RECREATION RECOVERED COSTS

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2008, for the function and in the amount as follows:

700 Parks and Recreation	\$22,000
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The sources of the funds for the foregoing appropriation are as follows:

Revenue Account

416158	Donations	\$ 2,000
416010	Athletic Revenue	\$12,000
451203	Undesignated Fund Balance	<u>\$ 8,000</u>
	Total	\$22,000

Said resolution appropriates funds received as donations, recovered costs, additional revenue and fund balance to cover the cost of athletic programs through year end.

A-FY-08-96
SHERIFF
RECOVERED COSTS

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2008, for the function and in the amount as follows:

310	Sheriff – Comp Board	\$ 674
320	Sheriff – County	\$10,813
321	Sheriff – Grants	<u>\$ 250</u>
	Total	\$11,737

The sources of the funds for the foregoing appropriation are as follows:

Revenue Account

419108	Recovered Costs	\$11,487
424401	Project Lifesaver	<u>250</u>
	Total	\$11,737

Said resolution appropriates recovered costs and Project Lifesaver funds for use by the Sheriff's department.

A-FY-08-97
TREASURER'S OFFICE - COLLECTION

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2008 for the function and in the amount as follows:

162	Treasurer's Collections	\$6,020
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The sources of the funds for the foregoing appropriation are as follows:

<u>Revenue Account</u>		
411604	DMV Stop Administrative Fee	\$5,880
416010	Warrant in Debt Fees	<u>\$ 140</u>
	Total	\$6,020

Said resolution appropriates monies received from taxpayers for DMV service charges for stops on license issuance and from warrant-in-debt fees.

A-FY-08-98
SCHOOL OPERATING FUND
CANNERY

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the School Operating Fund is granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2008 for the function and in the amount as follows:

610000	Instruction	\$4,025
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The source of funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
451100	Transfer from General Fund	\$4,025

BE IT FURTHER RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

<u>FROM:</u>		
9103	Riner Cannery	(\$4,025)

<u>TO:</u>		
451200	Transfer to the School Operating Fund	\$4,025

Said resolution provides the appropriation necessary to operate the Riner Cannery for FY 08.

A-FY-08-99
LIBRARY
SUPPLEMENTAL APPROPRIATION

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2008, for the function and in the amount as follows:

710	Montgomery Library	\$59,890
720	Floyd Library	<u>\$20,412</u>
	Total	\$80,302

The sources of the funds for the foregoing appropriation are as follows:

<u>Revenue Account</u>	
02710-419108 Recovered Costs	\$ 937
02710-416158 Library Donations	31,921
02710-416151 Library Fines	20,000
02710-416152 Library Fees	3,012
02710-416160 Town of Christiansburg	2,000
02710-424401 Library Grant	2,020
02720-416158 Library Donations	15,280
02720-419108 Recovered Costs	299
02720-416156 Floyd County Contribution	1,000
02720-415211 Sale of Photocopies	3,000
02720-416151 Library Fines	<u>833</u>
Total	\$80,302

Said resolution appropriates funds received in excess of the revenue estimates for use by the Library.

R-FY-08-152
FINAL PLAT
HOGANS RETREAT SUBDIVISION

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

WHEREAS, The Hogan's Retreat Subdivision consists of 36 lots located off Dry Valley Road (Route 787) and has been found to meet the requirements of the Montgomery County Code Chapter 8, Article IV (Subdivision Ordinance); and

WHEREAS, The Montgomery County Code, Section 8-156 provides that a subdivider shall make adequate provision for storm and floodwater runoff and that if a subdivision involves new streets, the Virginia Department of Transportation shall determine that adequate provision for runoff will be taken; and

WHEREAS, The Virginia Department of Transportation requires that Montgomery County assume maintenance responsibility and liability that might arise from detention facilities in subdivisions; and

WHEREAS, The Owner has proffered that all storm water management and erosion and sediment control measures will be reviewed and approved by the VA Department of Environmental Quality under the Virginia Water Protection Permitting guidelines; and

WHEREAS, The Owner proffered to provide a riparian buffer/open space easement for the protection of existing perennial streams.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia does hereby approve the Final Plat of Hogan's Retreat Subdivision (Gay and Neel Inc. Job No. 1290.2 dated 05/31/07, Riner Magisterial District).

FURTHER, The Chairman is hereby authorized to sign said plats for recordation.

RECESS

The Board recessed for a 15 minute break and reconvened at 10:10 p.m.

INTO WORK SESSION

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. FY 2008-2009 Budget

The vote on the foregoing motion was as follows:

AYE

Mary W. Biggs
James D. Politis
John A. Muffo
Gary D. Creed
Doug Marrs
William H. Brown
Annette S. Perkins

NAY

None

FY 2008-2009 Budget

The Assistant County Administrator reported that at their April 14, 2008 meeting, the Board adopted the real estate tax rate at 71¢, totaling \$156,507,271. Total windfall dollars will total \$2,627,420. She was directed by the Board to develop several budget options which would maximize the use of the windfall dollars and to revisit items listed in previous plans in order to increase compensation. The attachment includes three (3) plans which focus on:

1. Maximizing windfall dollars to fund roads and Fire and Rescue equipment.
2. Use 3 cents of the 4 cents earmarked for debt service in the FY 09 Budget and increase compensation (the FY 09 Proposed Budget uses only 2 of the 4 cents)
3. Fund all Fire and Rescue equipment using the windfall dollars and increased compensation.

ATTACHMENT: Revised Plans to Balance the Budget dated April 17, 2008.

REVISED PLANS TO BALANCE THE BUDGET April 17, 2008			
PLAN 1	Total Budget = \$156,507,271	PLAN 2	Total Budget = \$156,507,271
Adjust State Revenue-Schools Total State \$= \$5.5 million	(256,032)	Adjust State Revenue-Schools Total State \$= \$5.5 million	(256,032)
Compensation 5.5% average County and Schools		Compensation 6.2% average County and Schools	
USE OF WINDFALL Fund one-time items	2,627,420	USE OF WINDFALL Fund one-time items	2,627,420
Jointer Study	(225,950)	Jointer Study	(225,950)
Gypsy Moth	(50,365)	Gypsy Moth	(50,365)
Waste Containers	(31,000)	Waste Containers	(31,000)
MDTs	(110,000)	MDTs	(110,000)
Rainy Day Fund	(1,000,000)	Rainy Day Fund	(1,000,000)
Fuel Reserve	(208,105)	Fuel Reserve	(208,105)
FSR = total of \$1.1 million	(400,000)	FSR = total of \$1.1 million	(400,000)
Roads	(500,000)	Roads	(500,000)
One time \$'s for Brain Injury	(1,000)	One time \$'s for Brain Injury	(1,000)
Parks and Rec	(100,000)	Parks and Rec	(100,000)
Total	(2,627,420)	Total	(2,627,420)
Notes: Added money for Roads and/or Fire and Rescue above what is listed would lower the Fuel Reserve and/or the Rainy Day Fund		Notes: Added money for Roads and/or Fire and Rescue above what is listed would lower the Fuel Reserve and/or the Rainy Day Fund	
PLAN 3	Total Budget = \$156,507,271	PLAN 3	Total Budget = \$156,507,271
Adjust State Revenue-Schools Total State \$= \$5.5 million	(256,032)	Adjust State Revenue-Schools Total State \$= \$5.5 million	(256,032)
Compensation 6.3% average County and Schools		Compensation 6.3% average County and Schools	
USE OF WINDFALL Fund one-time items	2,627,420	USE OF WINDFALL Fund one-time items	2,627,420
Jointer Study	(225,950)	Jointer Study	(225,950)
Gypsy Moth	(50,365)	Gypsy Moth	(50,365)
Waste Containers	(31,000)	Waste Containers	(31,000)
MDTs	(110,000)	MDTs	(110,000)
Rainy Day Fund	(551,250)	Rainy Day Fund	(551,250)
Fuel Reserve	0	Fuel Reserve	0
FSR = total of \$1.1 million	(1,056,855)	FSR = total of \$1.1 million	(1,056,855)
Roads	(500,000)	Roads	(500,000)
One time \$'s for Brain Injury	(1,000)	One time \$'s for Brain Injury	(1,000)
Parks and Rec	(100,000)	Parks and Rec	(100,000)
Total	(2,627,420)	Total	(2,627,420)
Notes: Added money for Roads and/or Fire and Rescue above what is listed would lower the Fuel Reserve and/or the Rainy Day Fund		Notes: Added money for Roads and/or Fire and Rescue above what is listed would lower the Fuel Reserve and/or the Rainy Day Fund	

4-28-08

Plan 1

Provides a total of \$1.1 million for Fire & Rescue Equipment
Provides a total of \$500,000 for roads (matching funds for VDOT's Revenue Sharing Program)
Adds \$1,000 for a one-time funding for Brain Injury Services
Reduces the Fuel Reserve to \$208,205
Provides compensation for an average 5.5% increase for County and Schools employees

Plan 2

Provides a total of \$1.1 million for Fire & Rescue Equipment
Provides a total of \$500,000 for roads (matching funds for VDOT's Revenue Sharing Program)
Adds \$1,000 for a one-time funding for Brain Injury Services
Reduces the Fuel Reserve to \$208,205
Uses 3 cent of the 4 cent for school construction for Debt Service. This will free up 1 cent of the real estate tax to be applied to increased compensation and provide an average 6.2% increase in compensation.

Plan 3

Provides a total of \$1.1 million for Fire & Rescue Equipment
Provides a total of \$500,000 for roads (matching funds for VDOT's Revenue Sharing Program)
Adds \$1,000 for a one-time funding for Brain Injury Services
Eliminates the Fuel Reserve
Reduces the Rainy Day fund to \$551,250
Cuts the 1 cent for Fire & Rescue with funding from the windfall and applies the dollars to increase compensation.
Uses 3 cent of the 4 cent for school construction for Debt Service. This will free up 1 cent of the real estate tax to be applied to increased compensation.
Plan 3 will provide an average increase compensation of 6.9%.

After a lengthy discussion, the majority of the Board members stated they could vote for Plan 1. This will still provide employee with an adequate salary increase and fund one-time items with the windfall money. Several Board members stressed that money in the debt reserve fund for school construction needed to remain as there were still school construction projects on the horizon. The proposed budget allocated two cents of this money to help pay for new debt in FY 08-09 for new schools underway and with the remaining two cents to be used in the future.

Supervisor Biggs stated for the record that she can not support Plan 1.
Supervisor Brown stated for the record that he can not support Plan 1. He believes that the Board needs to do something for the County employees.

Supervisor Creed called the questions and asked for the vote to be taken.

OUT OF WORK SESSION

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends the Work Session to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
John A. Muffo	
Gary D. Creed	
Doug Marrs	
William H. Brown	
Mary W. Biggs	
Annette S. Perkins	

Statement of No Conflict

Supervisor Biggs – I am currently employed by the Montgomery County School System. The County budget includes the School Board budget that is prepared and approved by the School Board. The School Board budget includes money that will be used to pay salaries of all the employees in the school system of which I am one. I am able to vote on the budget and be objective about it and vote fairly and in the public interest and in this case I'm voting no.

Supervisor Perkins - I am employed at the current time by the Montgomery County School System, although that employment will end on June 30, 2008. The County budget includes the School Board budget that is prepared and approved by the School Board. The School Board budget includes money that will be used to pay salaries of all the employees in the school system of which I am one, although I will not benefit at all. I am able to participate in voting on the County budget fairly and objectively in the public interest

Supervisor Perkins also stated that she is extremely unhappy with the plan, she believes they made a commitment, to our Sheriff's deputies, to our county employees, and to our school employees, to attempt to try to raise their salaries, especially when last year nothing much was given to the school employees although the county employees did receive a 5-5-1 setup. She stated that she too could not support Plan 1 and would vote no.

OLD BUSINESS

**R-FY-08-153
RESOLUTION ADOPTING PLAN 1
FY 2008-2009 BUDGET**

On a motion by Gary D. Creed, seconded by John A. Muffo and carried,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby approves Plan 1, as shown below, in order to balance the Annual Budget for Fiscal Year 2008-2009 totaling \$156,507,271.

PLAN 1 TOTAL BUDGET = \$156,507,271

Adjust State Revenue – Schools	
Total State \$ = \$5.5 million	(296,032)
Compensation: 5.5% average County and Schools	
Use of Windfall	\$2,627,420
Fund one-time items:	
Joinder Study	(226,950)
Gypsy Moth	(50,365)
Waste Containers	(31,000)
MDT's (Sheriff)	(110,000)
Rainy Day Fund	(1,000,000)
Fuel Reserve	(208,105)
F&R = Total of \$1.1 million	(400,000)
Roads	(500,000)
One time \$ for Brain Injury	(1,000)
Parks & Recreation	<u>(100,000)</u>
Total	(2,627,420)

The vote on the foregoing resolution was as follows:

AYE

John A. Muffo
Gary D. Creed
Doug Marrs
James D. Politis

NAY

William H. Brown
Mary W. Biggs
Annette S. Perkins

R-FY-08-154
RESOLUTION ADOPTING THE
FY 2008-2009 BUDGET

On a motion by Gary D. Creed, seconded by William H. Brown and carried,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Annual Budget for Fiscal Year 2008-2009 be and the same is adopted in the amount of \$156,507,271 as outlined in Plan 1 as shown below, which except in the case of the public school budget, shall be for informative and fiscal planning purposes only:

PLAN 1 TOTAL BUDGET = \$156,507,271

Adjust State Revenue – Schools	
Total State \$ = \$5.5 million	(296,032)
Compensation: 5.5% average County and Schools	
Use of Windfall	\$2,627,420
Fund one-time items:	
Joinder Study	(226,950)
Gypsy Moth	(50,365)
Waste Containers	(31,000)
MDT's (Sheriff)	(110,000)
Rainy Day Fund	(1,000,000)
Fuel Reserve	(208,105)
F&R = Total of \$1.1 million	(400,000)
Roads	(500,000)
One time \$ for Brain Injury	(1,000)
Parks & Recreation	<u>(100,000)</u>
Total	(2,627,420)

The vote on the foregoing resolution was as follows:

AYE

Doug Marrs
William H. Brown
James D. Politis
John A. Muffo
Gary D. Creed

NAY

Mary W. Biggs
Annette S. Perkins

NEW BUSINESS

**R-FY-08-155
ESTABLISH HEALTH SAVINGS ACCOUNT
(HSA) PLAN ELECTION FOR
EMPLOYEE HEALTH INSURANCE;
OFFER VOLUNTARY LONG TERM CARE INSURANCE OPTIONS;
AND ADDITIONAL VRS BENEFITS FOR LAW ENFORCEMENT**

On a motion by Doug Marrs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby establishes a health insurance plan election for a Health Savings Account (HSA) which will allow the payment of health insurance and long-term care insurance premiums with pre-tax dollars.

BE IT FURTHER RESOLVED, The Board of Supervisors hereby establishes a voluntary long-term care insurance coverage option for interested employees.

BE IT FURTHER RESOLVED, The Board of Supervisors hereby offers retired law enforcement officers age 60 or above the opportunity to set aside up to \$3,000 from their Virginia Retirement System (VRS) benefit per year to pay health and long-term care premiums on a pre-tax basis.

The vote on the foregoing resolution was as follows:

AYE

Gary D. Creed
Doug Marrs
William H. Brown
Mary W. Biggs
James D. Politis
John A. Muffo
Annette S. Perkins

NAY

None

R-FY-08-156
RESOLUTION AUTHORIZING THE
MONTGOMERY COUNTY PUBLIC SCHOOLS TO
LEASE PROPERTY BEHIND THE
BLACKSBURG STADIUM FOR FARMING

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

WHEREAS, The County of Montgomery purchased 68 acres and leased 17 acres (“Kipps Farm Property”) from Kipps Farm, LLC, to locate the new Blacksburg High School Stadium and a future yet to be determined High School; and

WHEREAS, The Kipps Farm property has been previously used for farming prior to the County purchasing the property; and

WHEREAS, Area farmers have expressed an interest in leasing the Kipps Farm property for farming use; and

WHEREAS, The County and the School Board do not have a current public use for the Kipps Farm Property other than the Stadium Use; and

WHEREAS, The Montgomery County Public Schools has developed specifications governing the use of the available properties to ensure compatibility with current and future school uses of the property; and

WHEREAS, The Board of Supervisors desires to assign the right to lease the Kipps Farm Property to the School Board subject to the Board having the right to cancel all leases upon written 60 day notice and subject to the School Board agreeing to manage the leases subject to the School Board’s policy on the use of available property not currently being used for school purposes.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery that the Board of Supervisors hereby agrees to assign the right to the Montgomery County School Board to lease the Kipps Farm Property for farming use only, subject to the following conditions:

1. All leases for farming shall have sixty (60) day termination clauses. The Board of Supervisors reserves the right to terminate any lease of the property upon 60 day written notice from the County Administrator and terminate the School Board’s right to lease the Kipps Farm Property for farming use.
2. The Montgomery County School Board shall be responsible for managing the farm leases and ensuring compliance with all School Board and Town of Blacksburg requirements.

3. Montgomery County and the Montgomery County School Board shall be indemnified and held harmless from any liability in all farming leases of the Kipps Farm Property.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
William H. Brown	
Mary W. Biggs	
James D. Politis	
John A. Muffo	
Gary D. Creed	
Annette S. Perkins	

R-FY-08-157
RESOLUTION PROCLAIMING
MAY 11 – MAY 17, 2008
AS NATIONAL POLICE WEEK

On a motion by Mary W. Biggs, seconded by Gary D. Creed and carried unanimously,

WHEREAS, The Congress and President of the United States have designated ***May 15 as Peace Officers' Memorial Day***, and the week in which May 15 falls as ***National Police Week***; and

WHEREAS, The members of the Montgomery County Sheriff's Office play an essential role in safeguarding the rights and freedoms of Montgomery County; and

WHEREAS, It is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our Montgomery County Sheriff's Office recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

WHEREAS, The men and women of the Montgomery County Sheriff's Office unceasingly provide a vital public service.

NOW, THEREFORE, The Board of Supervisors of Montgomery County calls upon all citizens of Montgomery County and upon all patriotic, civic and educational organizations to observe the week of ***May 15, 2008 as National Police Week*** with appropriate ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities and, is so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

BE IT FURTHER RESOLVED, The Board of Supervisor of Montgomery County calls upon all citizens of Montgomery County to observe ***May 15, 2008*** as ***Peace Officers' Memorial Day*** in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

In witness thereof, I have hereunto set my hand and caused the Seal of Montgomery County to be affixed.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
James D. Politis	
John A. Muffo	
Mary W. Biggs	
Gary D. Creed	
Doug Marrs	
Annette S. Perkins	

R-FY-08-158
RESOLUTION OF APPRECIATION
WASHINGTON COUNTY

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, Due to a change in venue of the Commonwealth of Virginia's trial for the capital murders of Derrick McFarland, a security guard at Montgomery Regional Hospital, and Cpl. Eric Sutphin, a Montgomery County Sheriff's Deputy, the trial was moved from the Twenty-Seventh Judicial Circuit, Montgomery County, to the Twenty-Eighth Judicial Circuit, Washington County; and

WHEREAS, During that time there was tremendous cooperation and assistance offered to Montgomery County staff by Washington County Sheriff Fred P. Newman, Chief Deputy Blake Andis and staff; Southwest Virginia Regional Jail Superintendent Lee Noble and his staff; Abingdon Police Chief Tony Sullivan and his staff; Clerk of the Circuit Court Patricia S. Phipps and her staff; Commonwealth's Attorney Dennis Godfrey and his staff; and The Honorable C. Randall Lowe and his staff; and

WHEREAS, The Washington County Sheriff's Office provided additional personnel for outstanding and critically needed support, who dedicated a significant amount of time assisting the Montgomery County Sheriff's Office during the trial; and

WHEREAS, The Southwest Virginia Regional Jail made a significant contribution by housing the inmate during the trial and assisting with security during transportation to and from the Courthouse; and

WHEREAS, The Washington County Clerk of the Circuit Court and her staff assisted in countless hours of document preparation, file transfer and court proceedings; and

WHEREAS, The Washington County Commonwealth's Attorney and his staff made available their offices and resources; and

WHEREAS, The Honorable C. Randall Lowe and his staff made available their offices and resources; and

WHEREAS, Throughout this trying time, the citizens of the Town of Abingdon and Washington County brought great credit to their local community in offering their gracious hospitality to all.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia, on behalf of Montgomery County Sheriff Tommy Whitt and staff, Clerk of the Circuit Court Erica Williams and staff, and Commonwealth's Attorney Brad Finch and staff, express their appreciation and gratitude to the following:

Washington County Sheriff Fred P. Newman and staff
Southwest Virginia Regional Jail Superintendent Lee Noble and staff
Clerk of the Circuit Court Patricia S. Phipps and staff
Abingdon Police Chief Tony Sullivan and staff
Commonwealth's Attorney Dennis Godfrey and staff
The Honorable C. Randall Lowe and staff
The Citizens of the Town of Abingdon
The Citizens of Washington County

BE IT FURTHER RESOLVED, That an original of this Resolution be presented to the individuals listed above, requesting that they further disseminate copies of this Resolution to their respective staff so they may be apprised of the sense of the Board of Supervisors of Montgomery County in this matter, and that a copy be made a part of the official minutes of Montgomery County.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
John A. Muffo	
Mary W. Biggs	
Gary D. Creed	
Doug Marrs	
William H. Brown	
Annette S. Perkins	

BOARD MEMBERS' REPORTS

Supervisor Brown attended the Fire and Rescue Commission meeting on April 17, 2008. He submitted approved F&R Commission minutes for distribution.

Rhondy & Margene Martin Rezoning Request – Supervisor Brown reported that the agent for the Martin Rezoning requested that the Board of Supervisors consider taking action on this request at tonight's meeting. He understands now that the Board normally waits until the next meeting to take action in order to review and consider information given at the public hearing and to hear any comments that may be addressed to the Board. He asked if the Board wished to act on this request tonight or wait until the May 12th meeting. It was the Board's desire to take action on this request at May 12, 2008 meeting.

Supervisor Biggs submitted information from the Library Board meeting to be included in the County Administrator's weekly report.

Supervisor Politis recommended that Neal Turner be appointed to fill an unexpired term on the Community Services Board and suggested that Mr. Turner also be appointed to serve a full term upon expiration of serving the unexpired term.

R-FY-08-159 COMMUNITY SERVICES BOARD APPOINTMENT

On a motion by James D. Politis, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Neal Turner** to the **Community Services Board** effective April 29, 2008 and expiring June 30, 2008.

Said appointment fills the unexpired term of Jennifer Leary, resigned.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
James D. Politis	
Mary W. Biggs	
William H. Brown	
Doug Marrs	
Gary D. Creed	
Annette S. Perkins	

R-FY-08-160
COMMUNITY SERVICES BOARD
APPOINTMENT

On a motion by James D. Politis, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Neal Turner** to the **Community Services Board** effective July 1, 2008 and expiring June 30, 2011.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
James D. Politis	
Mary W. Biggs	
William H. Brown	
Doug Marrs	
Gary D. Creed	
Annette S. Perkins	

Board Members' Reports (continued)

Supervisor Muffo recommended that Charles Noblin be appointed to the Community Policy and Management Team.

R-FY-08-161
COMMUNITY POLICY AND MANAGEMENT TEAM
APPOINTMENT

On a motion by John A. Muffo, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Charles D. Noblin** as a Citizen Representative to the **Community Policy and Management Team (CPMT)** effective April 29, 2008 and expiring April 28, 2010.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
Mary W. Biggs	
William H. Brown	
Doug Marrs	
Gary D. Creed	
John A. Muffo	
Annette S. Perkins	

Supervisor Perkins attended a regional meeting regarding the proposed Norfolk Southern Intermodal facility at the Salem Civic Center on April 25, 2008. Supervisor Perkins spoke on behalf of the Board of Supervisors in opposition to the facility being built in Elliston.

Elliston Volunteer Fire Department - New Fire Station - Supervisor Perkins attended the open house for the new fire station in Elliston. She stands in awe of all volunteers who take time to serve the citizens by volunteering. Supervisors Perkins recognized Chief Pug Wells who has served for 51 years.

ADJOURNMENT

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously, the Board adjourned to Monday, May 12, 2008 at 6:00 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Mary W. Biggs	
Gary D. Creed	
Doug Marrs	
William H. Brown	
James D. Politis	
Annette S. Perkins	

The meeting adjourned at 10:45 p.m.

APPROVED: _____	ATTESTED: _____
Annette S. Perkins	B. Clayton Goodman, III
Chair	County Administrator